

REAL ESTATE EXCISE TAXES
RCW 82.45 and 82.46

Tax Base Sales of real estate measured by the full selling price, including the amount of any liens, mortgages or other debts. The tax also applies to transfers of controlling interests in entities that own property in the state.

Tax Rate 1.53 or 1.78% - Combined state/local tax rate in most areas. The highest actual rate is 2.78 percent which applies in the city of Friday Harbor, and a maximum rate of 3.28 percent is possible under current statutes. Components of the overall rate are discussed below.

State = 1.28 percent (RCW 82.45.060); receipts deposited in general fund for exclusive use in funding K-12 education and public works assistance.

Cities and counties = up to 0.25 percent (RCW 82.46.010(2)); receipts may only be used for capital improvements. The most common combined tax rate is 1.53 percent, because 153 cities and 24 counties have implemented the original 0.25 percent local tax.

Cities and counties = up to 0.5 percent (RCW 82.46.010(3)); but this may only be imposed if the city or county does not levy the second 0.5 percent local sales tax pursuant to RCW 82.14.030(2); receipts may be used for general purposes of the city or county. The cities of Clarkston and Asotin are the only jurisdictions which levy this rate.

Counties = up to 1.0 percent (RCW 82.46.070); the proceeds may only be used for acquisition and maintenance of conservation areas. This tax, authorized by the Legislature in 1990, has been implemented only in San Juan County.

Cities and counties = up to 0.25 percent (RCW 82.46.035); receipts may be used exclusively for capital projects specified in a comprehensive plan. This tax was authorized in 1990 and has been implemented to date by 108 cities and 9 counties.

In 23 cities and the unincorporated portion of 5 counties, no local REET has been levied.

Levied by State, cities and counties. For the two local 0.25 percent taxes and the 0.5 percent local tax, the county rate only applies in the unincorporated area and the city rate only applies within the city. The 1.0 percent county tax applies countywide, including incorporated areas.

Recent Collections (\$000)

<u>Fiscal Year</u>	<u>Collections*</u>	<u>% Change</u>	<u>% of All State Taxes</u>
2001	\$434,310	(0.2)%	3.7%
2000	435,088	1.7	3.7
1999	428,006	12.0	3.7
1998	382,213	26.8	3.4
1997	301,444	9.4	2.9
1996	275,633	8.0	2.8
1995	255,116	(8.6)	2.7
1994	279,160	24.8	3.1
1993	223,650	6.8	2.7
1992	209,387	(0.1)	2.7

*State tax only.

According to data reported by local governments to the State Auditor via the Budget, Accounting and Revenue System, local real estate excise taxes collected during calendar year 2001, including the Treasurers' collection fee, amounted to \$154.9 million (cities, \$98.8 million and counties, \$56.1 million).

Administration

The real estate excise tax is typically paid by the seller of the property, although the buyer is liable for the tax if it is not paid. However, the 1.0 percent county tax adopted in 1990 specifically imposes the tax upon the purchaser. The Department of Revenue is generally responsible for the state tax, including promulgation of rules, preparation of the affidavit form and enforcement actions. County treasurers actually collect the state and local taxes, except for the tax that applies to acquisition of the controlling interests which is reported directly to the Department. Counties retain 1 percent of the collections from the state tax, the initial city/county tax of 0.25 percent and the 0.5 percent city/county tax as compensation for the cost of collection. The tax is paid along with filing of an affidavit form (Form #64-0001) which is signed by either the seller or the buyer of the property. The affidavit contains the identification of the buyer and seller, a description of the parcel, the selling price and other information about the property.

Distribution of Receipts

1.0 percent of the state tax collected by counties is retained to cover administration costs. Of the net proceeds to the state, 7.7 percent is deposited in the public works assistance account to help fund maintenance of local government public works facilities. The remainder of the state tax is dedicated to support of basic education. See discussion under Tax Rate section for use of local real estate excise tax funds.

Penalties levied on delinquent tax payments are dedicated to the housing trust fund pursuant to RCW 82.45.100.(6).

Exemptions, Deductions and Credits

- exemption for property acquired by gift, inheritance and other transfers which do not represent market transactions at "arm's length", such as transfers to a corporation or partnership owned by the transferor or his/her own family members.
- exemption for transfers to lien holders when such transfers are "in lieu" of foreclosure or forfeiture.
- exemption for real property acquired from a governmental entity, including federal, state or local jurisdictions.
- exemption for business transfers in which no gain or loss for federal income tax purposes occurs.
- credit for the amount of tax paid upon single family residential property, if the property is transferred to a real estate broker or other party who within nine months resells the property.

History

The real estate excise tax was initially authorized as a county tax in 1951. The authorizing statute permitted a tax of up to 1.0 percent with all receipts dedicated to school districts within the county, except for 0.5 percent which was retained by the county to cover administration costs.

Consistent with the ruling that funding for basic education is a state responsibility, the tax source was shifted to the state level, effective September 1, 1981. Actual collection of the tax remained with county treasurers. All receipts, except 1.0 percent for county collection costs, were earmarked within the state general fund for education.

Two surtaxes which were applied during 1982 increased the rate to 1.07 percent. Also in 1982 the first two local real estate taxes were authorized: 0.25 percent for capital purposes and 0.5 percent in lieu of the second 0.5 percent local sales tax.

In 1987, the Legislature repealed the conveyance tax which was a tax of \$1.00 (\$0.50 until 1983) for each \$500 of equity in real estate and other instruments conveyed to another person by the owner. In its place the rate of the real estate excise tax was raised by an equivalent amount, so that the state rate was increased from 1.07 to 1.28 percent, effective on May 18, 1987. (In 1985 the Legislature dedicated a portion of the conveyance tax receipts to the public works assistance account which helps local governments maintain streets, bridges, sewers, etc. An equivalent percentage, 7.7 percent, of the state real estate excise tax is accordingly dedicated to this account.)

The same 1987 legislation imposed an additional real estate excise tax of 0.06 percent to provide funding for state acquisition of conservation lands by the Department of Natural Resources. This additional tax, which raised the state rate to 1.34 percent, was effective from May 18, 1987 until June 30, 1989, when it expired.

The latest two local real estate excise taxes, the 1.0 percent county tax for conservation areas and the 0.25 percent city/county tax for capital projects specified in comprehensive local plans, were authorized by the Legislature in 1990.

In 1993 the tax was extended to the acquisition of a controlling interest in an entity which owns real property within the state. The tax applies only to the real property which the entity owns in Washington. This change was enacted to counter a growing practice of structuring transactions involving commercial/industrial property to avoid the tax. Also, the previous exemption for sales of real estate to a governmental entity was repealed. In 1999 controlling interests were defined as any acquisition of an entity within a 12 month period, even if the acquisition occurs in steps.

Discussion/Major Issues

During fiscal year 2001 there were approximately 272,500 taxable sales of real estate in Washington. Collections of the tax mirror changes in the local housing market and therefore can exhibit significant volatility, making the receipts difficult to forecast. For example, collections during two fiscal years in the past decade increased by approximately 25 percent over the previous year, reflecting the booming real estate market, principally in the Puget Sound region. In other years collections of the tax actually declined from the prior year.

Traditionally, the tax has been devoted to funding of education. Lately, funds from the state and local real estate excise taxes have been used to fund programs resulting from rapid development and in-migration into the state. Since new residents purchase real estate, this is considered an appropriate revenue source for such programs. However, it does tend to penalize long-time residents who need to sell their property. Likewise, it creates an

inequitable situation between those households and businesses which must sell, vis-a-vis others who remain at their present location.

Also, there has been concern about the dedication of the state rate and the proliferation of local taxes. Currently, the typical rate which applies in most urban areas is 1.78 percent, but there is the potential for a combined state/local rate of 3.28 percent. A rate of that magnitude could affect the real estate market.

Administratively, there is concern about the 1.0 percent county tax which is specifically imposed on the purchaser; other portions of the tax are typically paid by the seller.